



PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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M#

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300

03/30/2011 DALLEN 00000002 5687671

01 FC:1599

3295.00

OP

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 5,687,761Application Number: 127,057Issue Date: Nov. 18, 1997Filing Date: OCT. 8, 1996

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

**Also complete the following information, if applicable:**

The above-identified patent:

is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_

original application number \_\_\_\_\_

original filing date \_\_\_\_\_

2011 MAR 28 PM 4:53  
HSGTSC

resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

3/21/11

Date

  
SignaturePeter A. Langes

Typed or printed name of person signing Certificate

Adjustment date: 10/17/2011 CKHLOK

03/30/2011 DALLEN 00000002 5687671

01 FC:1599

-3295.00

OP

Refund Ref#: 10/17/2011 CKHLOK 0000174744

CHECK Refund Total: \$3295.00

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 1. SMALL ENTITY

 Pattee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

 Pattee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/>	\$ _____	3 ½ yr fee	<input type="checkbox"/>	\$ <del>0</del>	3 ½ yr fee
<input type="checkbox"/>	\$ _____	7 ½ yr fee	<input checked="" type="checkbox"/>	\$ 1,240	7 ½ yr fee
<input type="checkbox"/>	\$ _____	11 ½ yr fee	<input checked="" type="checkbox"/>	\$ 2,055	11 ½ yr fee

MAINTENANCE FEE BEING SUBMITTED \$ 3,295

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ N/A (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.SURCHARGE FEE BEING SUBMITTED \$       

## 5. MANNER OF PAYMENT

 Enclosed is a check for the sum of \$ 3,295 Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

 The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. \_\_\_\_\_

#361

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 7. OVERPAYMENT

As to any overpayment made, please

 Credit to Deposit Account No. \_\_\_\_\_

OR

 Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

Peter A. Langes  
 Typed or printed name(s)

537 Hastings Dr, Benicia, CA, 94510  
 Address

3/21/11  
 Date

Registration Number, if applicable

707-745-0922  
 Telephone Number

Address

## ENCLOSURES:

- Maintenance Fee Payment
- Statement why maintenance fee was not paid timely
- ~~Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)~~ *5/20/11* *N/A*
- Other: *EXHIBITS A-D*

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

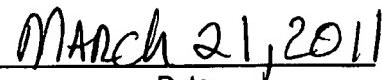
37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature



Type or printed name



Date

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

DUE TO FINANCIAL HANDSHUP FROM A MEDICAL CONDITION THAT LEFT ME DISABLED AND UNABLE TO WORK FULL TIME. I PETITION THAT MY LATE FEES WERE UNAVOIDABLE AND HAVE SHOWN DILIGENCE IN THE TASKS OF TRYING TO PRODUCE THE FUNDS REQUIRED.

THE FOLLOWING EXHIBITS A-D ILLUSTRATED MY EFFORTS, I GOT MESSED OVER BY SOCIAL SECURITY IN MY SELF EMPLOYMENT PLANS.

-THE FUNDS FOR THE LATE FEES WERE PROVENED AND REQUEST MY PATENT BE REINSTATED.

 3/21/11

(Please attach additional sheets if additional space is needed)

To: Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450



B.M  
September 11, 2011

Re: The Patent of Peter A. Langes

RECEIVED

Patent NO. 5,687,761

SEP 19 2011

Issue Date 11/18/97

Title of invention: Sewer Backup Indicator Apparatus

OFFICE OF PETITIONS

Attn. Ms. Patricia Faison Ball

Refund request for late maintenance fees collected by USPTO / Dismissal of Petition

Dear Ms. Faison Ball,

The Petitioner has had no response from the messages left on your voice mail weeks before your vacation. I am very upset and overwhelmed with the feeling of hopeless anxiety after reading the Petition dismissal notification, Dated July 29, 2011.

The USPTO letter refers to a different Patent No. 5,671,761 and a different invention name. The dismissal is confusing because of different information for fee due dates that is integrated within the dismissal notice. On Page 4, "no indication of Petitioner was ever empowered to handle matters related to this Patent" is stated in the letter.

The Petitioner was granted acceptance of Power of Attorney on April 4, 2011  
Confirmation No. 9903 The Attorney on Patent record has relocated out of state.

It would be in the best interest for the Petitioner to withdraw the petition and begin a new provisional patent to correct claims left out at the time of Patent issuance. (See attached copy letter to USPTO examiner) Petitioner's record of earlier efforts made to correct the missing claim issue with in time period under question. M.P.E.P. 1400 Correction of Patents was attempted with no success. Application control/Control Number 11/176,075

There is no rationale, or explanation given why the information provided to the USPTO is not acceptable. Realistically, "There are the priorities of living expenses vs. patent maintenance fees ... Being disabled and working part time to get by; living expenses have to come first."

This is a request for the return of \$3295.00 for late maintenance fees already paid to the USPTO to reactivate Patent No. 5,687,761. The USPTO has dismissed the petition. .

The petitioner was aware of due dates as indicated and he has illustrated his factual financial situation effectively as the burden of proof. The USPTO fails to recognize or, acknowledge, that a person with a disabling condition has to cope with tighter budgets than an average person to avoid financial hardship. The Petitioners income earning potential is handicapped as well.

Petitioner paid \$700.00 in surcharges thus far to be in a stale mate with the USPTO again, there's no mention of receiving surcharge fees. The late fees were paid and the condition is still the same. The problem is because of verb age of the word "unavoidable"

The USPTO letter of 7/29/11, page 4 requires \$400.00 more in surcharge fees with no guarantee of re -activating the Patent.

The USPTO letter of May 5, 2011 gives no mention of maintenance fee tracking system which is mentioned in USPTO letter of July 29, 2011. How is this applicable? The Petitioner kept in contact with the USPTO and knew when the fees were due. All the information has been provided that proves the fixed disability income prevented the payment on time.

The financial documents of the Petitioners self -employment rehab income and operating expenses were provided. Why the financial records from Nov 19, 2005 to July 5, 2011 would be of concern to the USPTO is questionable. The truth was presented and not acceptable by the USPTO. What kind of fairness can be expected when the authority having jurisdiction has demonstrated the lack of having the facts in order. The Petitioner was done a dis service by the USPTO. Why did the USPTO representatives direct the petitioner to file the petition instead of filing for new or provisional patent?

To conclude: Due to limited income, The Petitioner has to take care of legal matters best as possible. No Social Security Disability funds were spent on the Patent. However, marketing the device was one of the goals in the Plan to Achieve Self Support. The petitioner has generated public interest in the device. The Local SBDC (small business development center) is going to assist Petitioner to develop a business plan for a home based micro enterprise to make the plumbing safety devices available to the public.

Sincerely ,

Peter A. Langes

707-745-0922

537 Hastings Drive.

Benicia, CA 94510

Thursday, August 16, 2007

RECEIVED

To: The Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

SEP 19 2011

OFFICE OF PETITIONS

PTO examiner, John Rivell Application # 11 / 176, 07  
Final rejection 03/17/07: Amendment reconsideration

Mr. Rivell,

There was a missed claim feature to the original Patent 5,687,761 regarding this device being gas and water tight. Re: design of the lid of the yard box. It is pointed out that this claim # 6 is supported by the original art design. I have tried to correct these issues indicated in a response of 03/15/07. See the attached original drawing

The claims 1through 5 are unchanged and have been referenced in error again by the incorrect patent number in the final rejection notice. It appears the examiner is referring to a different patent and does not explain in layman terms what the problem is for not allowing me to amend my original patent with the missed claim.

When I filed 07/07/05 features were claimed that be incorporated with my patent with existing alarm devices, which was not allowed.

I filed the new application in error instead of filing an amendment. The maintenance fee to the original patent cost twice as much. It seemed cost effective to re-patent my own patent with the left out features Due to my fixed disability income hardship, I was not able to pay for an attorney to fix the problem of the missed claim feature. This is my own patent amendment, it does not infringe on other patents.

There is no reason given why am I not being permitted to amend my patent?

Sincerely,

Peter A. Langes



# REFUND REQUEST

*Patent petition  
dismissal July 29,  
2011*

Please return the late fees paid to reactivate patent 5,637,761, there is no reason to hold funds since the patent is not activated. The truth provided by the petitioner is unacceptable by the USPTO. The Petitioner needs the return of funds so the Petitioner can apply for a patent reissuance.